Telecommunications.[54] Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[55] For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year.[56] Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service, and Specialized Mobile Radio Telephony services.[57] Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.[58] Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

15. *Wireless Communications Services*. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of $15 million for each of the three preceding years.[59] The SBA has approved these definitions.[60] The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, seven bidders won 31 licenses that qualified as very small business entities, and one bidder won one license that qualified as a small business entity.

16. *Satellite Telecommunications Providers*. Two economic census categories address the satellite industry. The first category has a small business size standard of $15 million or less in average annual receipts, under SBA rules.[61] The second has a size standard of $25 million or less in annual receipts.[62]

17. The category of Satellite Telecommunications "comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and

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[54] U.S. Census Bureau, 2002 NAICS Definitions: Paging, http://www.census.gov/epcd/naics02/def/NDEF517.HTM (last visited March 2, 2011); U.S. Census Bureau, 2002 NAICS Definitions: Other Wireless Telecommunications, http://www.census.gov/epcd/naics02/def/NDEF517.HTM (last visited March 2, 2011).

[55] 13 C.F.R. § 121.201, NAICS code 517210 (2007 NAICS). The now-superseded, pre-2007 C.F.R. citations were 13 C.F.R. § 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

[56] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ5: Employment Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517210 in the left column for "Wireless Telecommunications Carriers (except Satellite)") (last visited March 2, 2011).

[57] *See Trends in Telephone Service* at Table 5.3.

[58] *See id.*

[59] *Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service*, GN Docket No. 96-228, Report and Order, 12 FCC Rcd 10785, 10879, para. 194 (1997).

[60] *See* Letter from Aida Alvarez, Administrator, SBA, to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC (filed Dec. 2, 1998) (*Alvarez Letter 1998*).

[61] 13 C.F.R. § 121.201, NAICS code 517410.

[62] 13 C.F.R. § 121.201, NAICS code 517919.

broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."[63] Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year.[64] Of this total, 464 firms had annual receipts of under $10 million, and 18 firms had receipts of $10 million to $24,999,999.[65] Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

18. The second category, i.e., All Other Telecommunications, comprises "establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry."[66] For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year.[67] Of this total, 2,347 firms had annual receipts of under $25 million and 12 firms had annual receipts of $25 million to $49, 999,999.[68] Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

19. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite).[69] Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees.[70] According to the *2008 Trends Report*, 434 carriers reported that they were engaged in wireless telephony.[71] Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees.[72] We have estimated that 222 of these are small under the SBA small business size standard.

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[63] U.S. Census Bureau, 2007 NAICS Definitions, Satellite Telecommunications, http://www.census.gov/naics/2007/def/ND517410.HTM (last visited March 2, 2011).

[64] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ4: Receipts Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517210 in the left column for "Satellite Telecommunications") (last visited March 2, 2011).

[65] *Id.*

[66] U.S. Census Bureau, 2007 NAICS Definitions, All Other Telecommunications, http://www.census.gov/naics/2007/def/ND517919.HTM (last visited March 2, 2011).

[67] U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2007 ECONOMIC CENSUS, http://factfinder.census.gov, (find "Economic Census" and choose "get data." Then, under "Economic Census data sets by sector...," choose "Information." Under "Subject Series," choose "EC0751SSSZ4: Receipts Size of Firms for the US: 2007." Click "Next" and find data related to NAICS code 517919 in the left column for "All Other Telecommunications") (last visited March 2, 2011).

[68] *Id.*

[69] 13 C.F.R. § 121.201, NAICS code 517210.

[70] *Id.*

[71] *See* Trends *in Telephone Service* at Table 5.3.

[72] *Id.*

3. Internet Service Providers

20. The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (*e.g.*, cable and DSL ISPs), or over client-supplied telecommunications connections (*e.g.*, dial-up ISPs). The former are within the category of Wired Telecommunications Carriers,[73] which has an SBA small business size standard of 1,500 or fewer employees.[74] The latter are within the category of All Other Telecommunications,[75] which has a size standard of annual receipts of $25 million or less.[76] The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers.[77] That category had a small business size standard of $21 million or less in annual receipts, which was revised in late 2005 to $23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year.[78] Of those, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999.[79] Consequently, we estimate that the majority of ISP firms are small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

21. This order has two components: clarification of the definition of Lifeline service and establishment of de-enrollment procedures for consumers receiving duplicative Lifeline supported services. These modifications of our rules are necessary to ensure that the statutory goals of section 254 of the Telecommunications Act of 1996 are met and to eliminate waste, fraud, or abuse in the Lifeline program.

22. *Clarification of the Definition of Lifeline & Carrier Obligation.* In this order, we modify the definition of Lifeline service to clarify that no qualifying low-income consumer is permitted to receive more than one Lifeline subsidy concurrently. This clarification places no additional burdens upon ETCs.

23. *De-Enrollment Procedures for Duplicate Service.* As part of the effort to reduce waste in the program, by this order, we adopt a rule requiring ETCs to de-enroll any Lifeline subscriber upon notification from the Universal Service Administrative Company (USAC) that the Lifeline subscriber should be de-enrolled from participation in that ETC's Lifeline program because the subscriber is receiving Lifeline service from another ETC. An ETC will be required to de-enroll a subscriber from its Lifeline program within five business days of receiving de-enrollment notification from USAC. Compliance with this requirement will place a burden on ETCs to de-enroll customers upon receiving notice from USAC. However, this burden will be minimal.

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[73] U.S. Census Bureau, 2007 NAICS Definitions: Wired Telecommunications Carriers, http://www.census.gov/naics/2007/def/ND517110.HTM (last visited March 2, 2011).

[74] 13 C.F.R. § 121.201, NAICS code 517110 (updated for inflation in 2008).

[75] U.S. Census Bureau, 2007 NAICS Definitions: All Other Telecommunications, http://www.census.gov/naics/2007/def/ND517919.HTM (last visited March 2, 2011).

[76] 13 C.F.R. § 121.201, NAICS code 517919 (updated for inflation in 2008).

[77] U.S. Census Bureau, 2002 NAICS Definitions: Internet Service Providers, Web Search Portals, and Data Processing Services, http://www.census.gov/epcd/naics02/def/NDEF518.HTM (last visited March 2, 2011).

[78] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," at Table 4, NAICS code 518111 (issued Nov. 2005).

[79] An additional 45 firms had receipts of $25 million or more.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

24. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[80]

25. We sought to minimize the burdens imposed on small entities where doing so would not compromise the goals of the universal service low-income mechanism. In order to minimize the impact on ETCs, and under the advisement of a number of industry representatives,[81] we have placed the burden of checking for duplicate claims upon USAC, rather than ETCs.[82] Furthermore, the duplicate resolution process set forth in the order requires USAC to notify an ETC which customers should be de-enrolled from the ETC's Lifeline program.[83]

F. Report to Congress:

26. The Commission will send a copy of the order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.[84] In addition, the Commission will send a copy of the order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the order and FRFA (or summaries thereof) will also be published in the Federal Register.[85]

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[80] 5 U.S.C. § 603.

[81] *See* Letter from United States Telecom Association, et al. to Marlene Dortch, Secretary, Federal Communications Commission, Ex Parte, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109 (filed Apr. 15, 2011) (*Industry Duplicate Resolution Process*); Letter from John T. Nakahata, Counsel, General Communications, Inc. to Marlene Dortch, Secretary, Federal Communications Commission, Ex Parte, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109 (filed Apr. 26, 2011) (correcting initial filing); *see also* NTCA Comments at 4; MITS Reply Comments at 3-4..

[82] *Lifeline and Link Up Reform and Modernization; Federal-State Joint Board on Universal Service; Lifeline and Link Up*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, Report and Order, FCC 11-97, para. 7 (rel. June 21, 2011).

[83] *Id.* at para. 15.

[84] 5 U.S.C. § 801(a)(1)(A).

[85] *See id.* § 604(b).

STATEMENT OF
CHAIRMAN JULIUS GENACHOWSKI

Re: *In the Matter of Lifeline and Link-Up Reform and Modernization*, WC Docket No. 11-42; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link-Up*, WC Docket No. 03-109

Today the Commission makes real progress to eliminate waste in the Lifeline program by strengthening protections against providing more than one discounted service to eligible consumers.

I commend those companies that have stepped up to this challenge and worked with Commission staff and USAC to address this serious problem. I expect other Lifeline recipients to play a similarly cooperative role in this ongoing effort to eliminate waste, fraud, and abuse.

Today's action is an important interim solution to the serious problem of duplicative Lifeline support. More remains to be done, including establishing a National Accountability Database to ensure that only eligible households are participating in the program. The Commission remains hard at work on this and other reforms proposed in our recent NPRM, such as modernizing Lifeline for a broadband world.

I'd like to thank the Commission's staff, particularly the staff of the Wireline Competition Bureau, for their outstanding work tackling this challenge.

STATEMENT OF
COMMISSIONER MICHAEL J. COPPS

Re: *In the Matter of Lifeline and Link Up Reform and Modernization,* WC Docket No. 11-42; *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45; *Lifeline and Link Up,* WC Docket No. 03-109

Connecting all Americans to the wonders of communications is at the core of our agency's responsibilities. The Lifeline program is a central part of this important mission, connecting low-income Americans who may not otherwise be able to afford phone service. I support efforts to strengthen this critical program by ensuring that program dollars are put to their best use so that benefits can flow to as many low-income consumers as possible. As such, I approve the modification we adopt today, which makes clear to eligible telecommunications carriers (ETCs) and individual consumers that they are entitled to receive just one single Lifeline subsidy.

This Order proposes a path forward to address those instances where consumers are receiving duplicate support today. This process has been structured to preserve consumer choice while at the same time to ensure that eligible recipients continue to receive one, but only one, Lifeline-supported telephone service. However, I would have welcomed more specific measures in this Order to protect consumers—to give recipients more ample time to select the single Lifeline-supported service they want, and to ensure that participants fully understand their options and that they realize in the absence of response they could actually incur a higher phone bill after their de-enrollment.

As we implement this Order, it will be incumbent upon the Commission to coordinate extensively with USAC, the states, and participating ETCs during the duplicate resolution process. I am concerned that unintended consequences could accompany implementation of this Order and I urge the Commission to be keenly aware of any problems that arise. The Commission and USAC must monitor closely the initial phase of this process, especially, and should analyze the results and feedback we receive from this first group of states, revising our efforts accordingly, before the Order is applied to additional states. And let us be ever-mindful, as we go about this task, of the needs of low-income consumers.

Finally, it is my hope that today's Order is a preamble to more comprehensive reform of the Lifeline program by the end of the year. The Commission issued a Notice of Proposed Rulemaking earlier this year which included proposals to revise the certification and verification procedures for Lifeline and set up a database of participating consumers—proposals with the potential to address the cause of the symptoms that we address on an interim basis here. And as the Commission continues to work on reorienting our Universal Service mission to the realities of the 21st century, we simply must act to expand Lifeline to support broadband. Low-income consumers cannot and should not wait any longer for the benefits of broadband—which for millions of Americans may be out of reach because of affordability. One analyst recently noted that those with incomes in the bottom 40% of U.S. households have virtually zero discretionary spending power after they pay for food, shelter, transportation and healthcare. Any savings to the program that are recovered through the duplicate resolution process should be used to bring the tools of the Digital Age to low-income consumers.

STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL

Re: *In the Matter of Lifeline and Link Up Reform and Modernization,* WC Docket No. 11-42; *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45; *Lifeline and Link Up,* WC Docket No. 03-109

In the context of universal service reform, I have often stressed that reducing waste, fraud and abuse should be one of the FCC's top priorities. This order takes a step in the right direction by ensuring that individuals do not receive duplicate subsidies from the Lifeline program. As such, I support this order. But, there is more to be done, and I look forward to working on additional reforms that will curb waste, fraud and abuse and adhere to Congress' intent for the Lifeline program.

STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN

Re: *In the Matter of Lifeline and Link-Up Reform and Modernization*, WC Docket No. 11-42; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link-Up*, WC Docket No. 03-109

The FCC and the carriers that participate in the Lifeline Assistance program have an obligation to act in the best interests of low-income consumers, as well as in the proper governance of the program and the Universal Service Fund. As such, I am supporting today's interim measure because it will ensure that qualifying consumers have access to telephone service, while addressing key issues when it comes to program inefficiency. By clarifying that our rules permit no more than one service per person, the Lifeline program will become more cost effective, and the savings realized can be used to benefit additional low-income consumers.

It is crucial that consumers understand our Lifeline rules, and the carriers participating in the Lifeline program are at the front lines of explaining the benefits to avoid individual duplicates. This item clarifies the expectations we have for those carriers when they are signing up a new Lifeline customer. In addition, this Commission is taking a close look at our own consumer information on the program, and we are modifying it as needed to ensure that consumers understand the benefits the Lifeline program affords.

It also is critical that those consumers who currently have more than one Lifeline-supported phone service are well informed of the situation, and that they have an opportunity to decide which phone service they prefer. The Bureau has been working closely with USAC and industry on the notification process; however, all parties involved must do their part to communicate clearly with consumers. This should include what the program rules are and what the resolution process for current duplicates entails. I would like to thank the staff for all of their efforts on this item, to ensure that consumers are properly notified of the duplicate issue and have the opportunity to select their Lifeline provider. It will be very important that we closely follow the duplicate resolution process during the first phase and modify it before the second and third phases, if there is significant consumer confusion.

There is no doubt that the Lifeline program is ripe for reform and modernization. It is important that we not take too long to address the issues teed up in our outstanding Notice of Proposed Rulemaking. That record is now complete, and we should act promptly so we can avoid having to take additional stop gap measures to fix the current program rules. Moreover, like the high-cost program, Lifeline needs to be modernized to reflect the current service needs of low-income consumers. We know that one-third of Americans have not adopted broadband, and affordability is the most significant reason why consumers have not subscribed. For low-income consumers, the cost of service and equipment is especially acute, as adoption for this segment of the population lags significantly. While private sector broadband adoption programs are promising, this Commission has a role to play in ensuring that low-income consumers can be connected. I believe the proposals for reforming the Lifeline program to support broadband service should be fully considered sooner rather than later, so that we may best meet the broadband needs of all American consumers.